



Children and Young People (Scotland) Act 2014

2014 asp 8

PART 2

COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE IN SCOTLAND

5 Investigations by the Commissioner

(1) The Commissioner for Children and Young People (Scotland) Act 2003 is amended as follows.

(2) In section 7—

(a) for subsections (1) and (2), substitute—

“(1) The Commissioner may carry out an investigation into—

(a) whether, by what means and to what extent a service provider has regard to the rights, interests and views of children and young people in making decisions or taking actions that affect those children and young people (such an investigation being called a “general investigation”);

(b) whether, by what means and to what extent a service provider had regard to the rights, interests and views of a child or young person in making a decision or taking an action that affected that child or young person (such an investigation being called an “individual investigation”).

(2) The Commissioner may carry out a general investigation only if the Commissioner, having considered the available evidence on, and any information received about, the matter, is satisfied on reasonable grounds that the matter to be investigated raises an issue of particular significance to—

(a) children and young people generally; or

(b) particular groups of children and young people.

(2A) The Commissioner may carry out an investigation only if the Commissioner, having considered the available evidence on, and any

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information received about, the matter, is satisfied on reasonable grounds that the investigation would not duplicate work that is properly the function of another person.”,

- (b) in subsection (3), omit paragraph (b),
- (c) after that subsection, add—

“(4) Subsection (5) applies in relation to a matter about which the Commissioner may carry out an individual investigation.

(5) Where the Commissioner considers that the matter may be capable of being resolved without an investigation, the Commissioner may with a view to securing that outcome take such steps as the Commissioner considers appropriate.”.

(3) In section 8—

- (a) in subsection (1), for paragraph (b) substitute—

“(b) take such steps as appear to the Commissioner to be appropriate with a view to bringing notice of the investigation and terms of reference to the attention of persons likely to be affected by it.”,

- (b) in subsection (2), for “An” substitute “A general”,
- (c) after that subsection, add—

“(3) An individual investigation is to be conducted in private.”.

(4) In section 11—

- (a) in subsection (1), for “lay before the Parliament” substitute “prepare”,
- (b) in subsection (3), for “laid before the Parliament” substitute “finalised”,
- (c) after that subsection, add—

“(4) The Commissioner must lay before the Parliament the report of a general investigation.

(5) The Commissioner may lay before the Parliament the report of an individual investigation.”.

6 Requirement to respond to Commissioner’s recommendations

(1) The Commissioner for Children and Young People (Scotland) Act 2003 is amended as follows.

(2) In section 11—

- (a) after subsection (2), insert—

“(2A) In relation to any such recommendation, the report may include a requirement to respond.

(2B) A requirement to respond is a requirement that the service provider provides, within such period as the Commissioner reasonably requires, a statement in writing to the Commissioner setting out—

- (a) what the service provider has done or proposes to do in response to the recommendation; or
- (b) if the service provider does not intend to do anything in response to the recommendation, the reasons for that.”,

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(b) after subsection (5) (as inserted by section 5 of this Act), add—

“(6) Where a report of an investigation includes a requirement to respond, the Commissioner must give a copy of the report to the service provider.”.

(3) After section 14, insert—

“14AA Publication of responses to recommendations of investigations

- (1) The Commissioner must publish any statement provided in response to a requirement to respond to a recommendation arising out of a general investigation.
- (2) Subsection (1) does not apply if, or to the extent that, the Commissioner considers publication to be inappropriate.
- (3) The Commissioner may publish any statement provided in response to a requirement to respond to a recommendation arising out of an individual investigation.
- (4) The Commissioner must ensure that, so far as reasonable and practicable having regard to the subject matter, the version of the statement which is published under subsection (1) or (3) does not name or identify any child or young person, or group of children or young people, referred to in it.
- (5) The Commissioner may, in such manner as the Commissioner considers appropriate, publicise a failure to comply with a requirement to respond.”.